

## Donald Phillips

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**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Wednesday, October 23, 2019 7:09 AM  
**To:** Donald Phillips  
**Subject:** PROPOSED PETITION, APPENDIX, PRESERVATION LETTER  
**Attachments:** Gerlach - GPD APPENDIX A.docx; QVL GERLACH- GPD PRESERVATION.pdf; Gerlach- GPD AOC-CV-270 (04.2017) (1).pdf

Dear Donald:

Please find attached the proposed petition and appendix (that appendix simply requests preservation for a year and then release by agreement IF we need anything else) -- the only thing we seek release of now is the vehicle tape from East 5th Street.

I also realized that I had not sent you a preservation letter for your file, even though you had very kindly agreed to preserve the tapes // recordings - I have enclosed a preservation letter for your file which you now have prior to the normal 30 day retention period expiring.

Please know that your work on this is greatly appreciated by me, my clients and many others.

Very best wishes. Fraternally,

Peter

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Peter Romary  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal

## **APPENDIX A**

It is requested that the Greenville Police Department shall maintain and preserve, for a period of one year from the date of the entry of any order in this matter, any and all recordings created between the hours of 2100 on Wednesday 25th September, 2019 and 0230 on Thursday 26th September that show Mr. Dan Gerlach in the police / City of Greenville camera monitored area of Greenville, NC.

This specifically includes but is not limited to views of the area outside of Sup Dogs, Greenville, NC between 2100-2250, Wednesday 25th September, any footage of the area outside of Club 519 Greenville, NC between 2240 and 0030, Wednesday 25th September-Thursday 26th September. Footage showing the outside of the front door of Club 519 between 0140-0200 Thursday September 26th.

If the parties agree, at some point within the next twelve months, that such videos / recordings may be released to Peter Romary, under the same terms and conditions as are set out in any order entered in this action, then the parties stipulate that they may be released for distribution as outlined above. If no agreement can be reached then the matter shall come on to be heard upon a properly calendared and noticed date before the Superior Court

**QVerity Legal**  
**147 ELLSWORTH MANOR DRIVE**  
**HILLSBOROUGH, NC 27278**  
**Phone : (252) 413-8155**  
**Email: [peter.romary@qverity.com](mailto:peter.romary@qverity.com)**

*Peter Romary*  
*Managing Partner*

October 23, 2019

Mr. Donald Phillips, Esq  
Assistant City Attorney  
GPD Attorney  
*Via Email*

**Re: Preservation of Custodial Law Enforcement Recordings by City of Greenville - GPD**

Dear Donald,

Pursuant to our earlier correspondence and our agreement that recordings would be preserved, I wanted you to have the following for your file.

As I will be filing a petition for release of Custodial Law Enforcement Recordings for my clients, the NC PBA and the Fraternal Order of Police, I am asking that you please preserve and maintain the video recordings showing Mr. Dan Gerlach on the night / early morning of Wednesday September 25<sup>th</sup>, 2019 – Thursday September 26, 2019.

Specifically, that you retain:

Footage taken by static or pole mounted cameras at the following times:

**\*\*Footage / recordings showing the area of 212 E. Fifth Street between 0210-0230 on Thursday 26<sup>th</sup> September showing Mr. Gerlach approaching a vehicle (believed to be a gold colored Nissan, walking up to the same, entering the vehicle and driving away from where it was parked.**

**\*The area outside of Sup Dogs, Greenville, NC between 2100-2250, Wednesday 25<sup>th</sup> September.**

**\*Any footage of the area outside of Club 519 Greenville, NC between 2240 and 0030, Wednesday 25<sup>th</sup> September-Thursday 26<sup>th</sup> September.**

**\*Footage showing the outside of the front door of Club 519 between 0140-0200 Thursday September 26<sup>th</sup>.**

Many thanks for your assistance.

**Sincerely,**

***Peter***

**Peter Romary**

**STATE OF NORTH CAROLINA**

File No.

In The General Court Of Justice  
Superior Court Division

County

**IN THE MATTER OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY:**

Name Of Petitioner

Address

City, State, Zip

Phone No.

Fax No.

Email Address

**PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING**☐ G.S. 132-1.4A(f) – Person authorized to receive disclosure  
(No Filing Fee Applies)☐ G.S. 132-1.4A(g) – General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to \_\_\_\_\_,  
state that at least some portion of the law enforcement agency recording was made in this county, and I further state the following:

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(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)

**CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY**

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

☐ Personal Delivery☐ By Regular Mail, US postage prepaid, addressed as follows:**CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY**

I certify that a filed copy of this Petition was served on the District Attorney as follows (only required for general release):

☐ Personal Delivery☐ By Regular Mail, US postage prepaid, addressed as follows:

Date

Petitioner's Signature

## Donald Phillips

---

**From:** Freddie Wilkins  
**Sent:** Wednesday, October 23, 2019 8:11 AM  
**To:** Patina Oxendine  
**Cc:** Donald Phillips; Mike Montanye  
**Subject:** Camera Access  
**Attachments:** Milestone Viewing Restriction

Everyone,

Do we still need these restriction? Read email below.

Freddie,

Below is the list of video files to restrict from viewing

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*Thanks for All you Do,*

**From:** Chris Ivey <CIvey@GREENVILLENC.GOV>  
**Sent:** Wednesday, October 23, 2019 5:21 AM  
**To:** Freddie Wilkins <FWilkins@greenvillenc.gov>  
**Subject:** Fwd:

Major D.C. Ivey  
Field Operations Bureau Commander  
Greenville, NC Police Department  
[civey@greenvillenc.gov](mailto:civey@greenvillenc.gov)  
252-329-4703

Begin forwarded message:

**From:** Richard Tyndall <[RTyndall@greenvillenc.gov](mailto:RTyndall@greenvillenc.gov)>  
**Date:** October 23, 2019 at 2:00:59 AM EDT  
**To:** Chris Ivey <[CIvey@GREENVILLENC.GOV](mailto:CIvey@GREENVILLENC.GOV)>

Can you get this fixed? I tried to pull up the cameras for a reported fight tonight and of course the camera that we needed is blocked. It was a fight at Sup Dogs reportedly.

## Donald Phillips

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**From:** Patina Oxendine  
**Sent:** Wednesday, October 16, 2019 9:26 AM  
**To:** Freddie Wilkins  
**Cc:** Mike Montanye; Donald Phillips  
**Subject:** Milestone Viewing Restriction

**Importance:** High

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*Patina "Tina" Oxendine*

Police Technology Specialist  
Greenville Police Department  
252-329-4152  
[poxendine@greenvillenc.gov](mailto:poxendine@greenvillenc.gov)  
[www.greenvillenc.gov](http://www.greenvillenc.gov)





*Find yourself in good company\**

\* Please note that any and all correspondence to and from this email address is subject to North Carolina Public Records Law and may be disclosed to third parties.



## Donald Phillips

---

**From:** Patina Oxendine  
**Sent:** Wednesday, October 23, 2019 8:30 AM  
**To:** Freddie Wilkins  
**Cc:** Donald Phillips; Mike Montanye  
**Subject:** RE: Camera Access

Freddie,

We only need the cameras restricted from playback for the cameras/times/dates listed. Does it restrict these cameras from future playbacks outside of these dates?

**From:** Freddie Wilkins <FWilkins@greenvillenc.gov>  
**Sent:** Wednesday, October 23, 2019 8:11 AM  
**To:** Patina Oxendine <POxendine@greenvillenc.gov>  
**Cc:** Donald Phillips <DKPhillips@greenvillenc.gov>; Mike Montanye <MMontanye@GREENVILLENC.GOV>  
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Field Operations Bureau Commander  
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**From:** Freddie Wilkins  
**Sent:** Wednesday, October 23, 2019 8:34 AM  
**To:** Patina Oxendine  
**Cc:** Donald Phillips; Mike Montanye  
**Subject:** RE: Camera Access

Yes it restrict all playback for those cameras.

*Thanks for All you Do,*

Freddie Wilkins  
Telecom Analyst IT Dept.  
City of Greenville  
200 West 5<sup>th</sup> Street  
Greenville NC 27858  
[fwilkins@greenvillenc.gov](mailto:fwilkins@greenvillenc.gov)  
[www.greenvillenc.gov](http://www.greenvillenc.gov)  
office 252-329-4773  
fax 252-329-4772  
mobile 252-916-1429



*Find yourself in good company*

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## Donald Phillips

---

**From:** Donald Phillips  
**Sent:** Wednesday, October 23, 2019 9:24 AM  
**To:** Freddie Wilkins; Patina Oxendine  
**Cc:** Mike Montanye; Donald Phillips  
**Subject:** RE: Camera Access

I am confused. Can we conference call this to make sure we are on the same page?

I am at (4331).

Donald

**Donald K. Phillips**  
Assistant City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207  
Tel: (252) 329-4426  
Fax: (252) 329-4626  
Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)  
Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



*Find yourself in good company®*

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Telecom Analyst IT Dept.*

City of Greenville  
200 West 5<sup>th</sup> Street  
Greenville NC 27858  
[fwilkins@greenvillenc.gov](mailto:fwilkins@greenvillenc.gov)  
[www.greenvillenc.gov](http://www.greenvillenc.gov)  
office 252-329-4773  
fax 252-329-4772  
mobile 252-916-1429



**From:** Patina Oxendine <[POxendine@greenvillenc.gov](mailto:POxendine@greenvillenc.gov)>  
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*Thanks for All you Do,*

**From:** Chris Ivey <[Clvey@GREENVILLENC.GOV](mailto:Clvey@GREENVILLENC.GOV)>  
**Sent:** Wednesday, October 23, 2019 5:21 AM  
**To:** Freddie Wilkins <[FWilkins@greenvillenc.gov](mailto:FWilkins@greenvillenc.gov)>  
**Subject:** Fwd:

Major D.C. Ivey  
Field Operations Bureau Commander  
Greenville, NC Police Department  
[civey@greenvillenc.gov](mailto:civey@greenvillenc.gov)  
252-329-4703

Begin forwarded message:

**From:** Richard Tyndall <[RTyndall@greenvillenc.gov](mailto:RTyndall@greenvillenc.gov)>  
**Date:** October 23, 2019 at 2:00:59 AM EDT  
**To:** Chris Ivey <[Clvey@GREENVILLENC.GOV](mailto:Clvey@GREENVILLENC.GOV)>

Can you get this fixed? I tried to pull up the cameras for a reported fight tonight and of course the camera that we needed is blocked. It was a fight at Sup Dogs reportedly.

## Donald Phillips

---

**From:** Donald Phillips  
**Sent:** Wednesday, October 23, 2019 9:53 AM  
**To:** Mark Holtzman; Shari S. Groccia; Patina Oxendine  
**Cc:** April Alligood; Donald Phillips  
**Subject:** FW: Camera Access

I talked with Freddie regarding our traffic/public safety cameras, access, restrictions, etc. I would like to discuss the substance of this call with you today when we meet at 3:30 pm at GPD 3rd floor conference room.

Thank you.  
Donald

**Donald K. Phillips**  
Assistant City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207  
Tel: (252) 329-4426  
Fax: (252) 329-4626  
Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)  
Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



**From:** Donald Phillips  
**Sent:** Wednesday, October 23, 2019 9:24 AM  
**To:** Freddie Wilkins <[FWilkins@greenvillenc.gov](mailto:FWilkins@greenvillenc.gov)>; Patina Oxendine <[POxendine@greenvillenc.gov](mailto:POxendine@greenvillenc.gov)>  
**Cc:** Mike Montanye <[MMontanye@GREENVILLENC.GOV](mailto:MMontanye@GREENVILLENC.GOV)>; Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Subject:** RE: Camera Access

I am confused. Can we conference call this to make sure we are on the same page?

I am at (4331).

Donald

**Donald K. Phillips**  
Assistant City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207  
Tel: (252) 329-4426  
Fax: (252) 329-4626  
Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)  
Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Freddie Wilkins  
**Sent:** Wednesday, October 23, 2019 8:34 AM  
**To:** Patina Oxendine <[POxendine@greenvillenc.gov](mailto:POxendine@greenvillenc.gov)>  
**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>; Mike Montanye <[MMontanye@GREENVILLENC.GOV](mailto:MMontanye@GREENVILLENC.GOV)>  
**Subject:** RE: Camera Access

Yes it restrict all playback for those cameras.

*Thanks for All you Do,*

*Freddie Wilkins  
Telecom Analyst IT Dept.  
City of Greenville  
200 West 5<sup>th</sup> Street  
Greenville NC 27858  
[fwilkins@greenvillenc.gov](mailto:fwilkins@greenvillenc.gov)  
[www.greenvillenc.gov](http://www.greenvillenc.gov)  
office 252-329-4773  
fax 252-329-4772  
mobile 252-916-1429*



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**From:** Patina Oxendine <[POxendine@greenvillenc.gov](mailto:POxendine@greenvillenc.gov)>  
**Sent:** Wednesday, October 23, 2019 8:30 AM  
**To:** Freddie Wilkins <[FWilkins@greenvillenc.gov](mailto:FWilkins@greenvillenc.gov)>  
**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>; Mike Montanye <[MMontanye@GREENVILLENC.GOV](mailto:MMontanye@GREENVILLENC.GOV)>  
**Subject:** RE: Camera Access

Freddie,

We only need the cameras restricted from playback for the cameras/times/dates listed. Does it restrict these cameras from future playbacks outside of these dates?

**From:** Freddie Wilkins <[FWilkins@greenvillenc.gov](mailto:FWilkins@greenvillenc.gov)>  
**Sent:** Wednesday, October 23, 2019 8:11 AM  
**To:** Patina Oxendine <[POxendine@greenvillenc.gov](mailto:POxendine@greenvillenc.gov)>  
**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>; Mike Montanye <[MMontanye@GREENVILLENC.GOV](mailto:MMontanye@GREENVILLENC.GOV)>  
**Subject:** Camera Access

Everyone,

Do we still need these restriction? Read email below.

Freddie,

Below is the list of video files to restrict from viewing

TFC\_GPD\_5thReade\_PTZ\_R2 09/25/2019 9:20 pm- 10:45pm  
UPT\_GPD\_5thReade\_Quad1\_NE\_R6a 09/25/2019 9:20 pm- 9:30pm  
UPT\_GPD\_5thReade\_Quad1\_W\_R6a 09/25/2019 9:20 pm- 9:30pm  
  
UPT\_GPD\_5thCotanche\_Quad5\_N\_R6a 09/25/2019 10:41 pm- 10:43pm  
UPT\_GPD\_5thCotanche\_Quad5\_E\_R6a 09/25/2019 10:41 pm- 10:43pm  
UPT\_GPD\_5thCotanche\_Quad5\_W\_R6a 09/25/2019 10:41 pm- 10:43pm  
  
UPT\_GPD\_5thCotanche\_Quad1\_SE\_R6a 09/25/2019 10:42 pm- 10:46pm  
UPT\_GPD\_5thCotanche\_Quad4\_N\_R6a 09/25/2019 10:42 pm- 10:46pm  
UPT\_GPD\_5thCotanche\_Quad4\_S\_R6a 09/25/2019 10:42 pm- 10:46pm  
  
UPT\_GPD\_5thCotanche\_Quad4\_SW\_R6a 09/26/2019 1:15Am- 1:21Am  
UPT\_GPD\_5thCotanche\_Quad4\_W\_R6a 09/26/2019 1:15Am- 1:21Am  
UPT\_GPD\_5thCotanche\_Quad4\_N\_R6a 09/26/2019 1:15Am- 1:21Am  
UPT\_GPD\_5thCotanche\_Quad4\_S\_R6a 09/26/2019 1:15Am- 1:21Am  
  
UPT\_GPD\_5thCotanche\_Quad1\_S\_R6a 09/26/2019 1:15Am- 1:21Am  
UPT\_GPD\_5thCotanche\_Quad1\_SE\_R6a 09/26/2019 1:15Am- 1:21Am  
  
UPT\_GPD\_5thCotanche\_S\_R2 09/26/2019 1:16Am- 1:56Am  
  
TFC\_GPD\_5thReade\_PTZ\_R2 09/2/2019 2:10 am- 2:13 am  
TFC\_GPD\_5thReade\_W\_R2 09/26/2019 2:10 am- 2:13 am  
UPT\_GPD\_5thReade\_Quad1\_NE\_R6a 09/26/2019 2:10 am- 2:13 am  
UPT\_GPD\_5thReade\_Quad1\_W\_R6a 09/26/2019 2:10 am- 2:13 am



*Thanks for All you Do,*

**From:** Chris Ivey <[CIvey@GREENVILLENC.GOV](mailto:CIvey@GREENVILLENC.GOV)>  
**Sent:** Wednesday, October 23, 2019 5:21 AM  
**To:** Freddie Wilkins <[FWilkins@greenvillenc.gov](mailto:FWilkins@greenvillenc.gov)>  
**Subject:** Fwd:

Major D.C. Ivey  
Field Operations Bureau Commander  
Greenville, NC Police Department  
[civey@greenvillenc.gov](mailto:civey@greenvillenc.gov)  
252-329-4703

Begin forwarded message:

**From:** Richard Tyndall <[RTyndall@greenvillenc.gov](mailto:RTyndall@greenvillenc.gov)>  
**Date:** October 23, 2019 at 2:00:59 AM EDT  
**To:** Chris Ivey <[CIvey@GREENVILLENC.GOV](mailto:CIvey@GREENVILLENC.GOV)>

Can you get this fixed? I tried to pull up the cameras for a reported fight tonight and of course the camera that we needed is blocked. It was a fight at Sup Dogs reportedly.

## Donald Phillips

---

**From:** Donald Phillips  
**Sent:** Wednesday, October 23, 2019 10:25 AM  
**To:** Peter Romary  
**Cc:** Donald Phillips  
**Subject:** PROPOSED PETITION, APPENDIX, PRESERVATION LETTER  
**Attachments:** Gerlach - GPD APPENDIX A.docx; QVL GERLACH- GPD PRESERVATION.pdf; Gerlach- GPD AOC-CV-270 (04.2017) (1).pdf

Peter:

For some reason, the AOC-CV-270 is blank (perhaps you did not save your changes?). Once you have completed your Petition, please email it to me so that we can discuss same.

Thank you.  
Donald

**Donald K. Phillips**  
Assistant City Attorney  
P.O. Box 7207  
Greenville, NC 27835-7207  
Tel: (252) 329-4426  
Fax: (252) 329-4626  
Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)  
Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Wednesday, October 23, 2019 7:09 AM  
**To:** Donald Phillips <DKPhillips@greenvillenc.gov>  
**Subject:** PROPOSED PETITION, APPENDIX, PRESERVATION LETTER

Dear Donald:

Please find attached the proposed petition and appendix (that appendix simply requests preservation for a year and then release by agreement IF we need anything else) -- the only thing we seek release of now is the vehicle tape from East 5th Street.

I also realized that I had not sent you a preservation letter for your file, even though you had very kindly agreed to preserve the tapes // recordings - I have enclosed a preservation letter for your file which you now have prior to the normal 30 day retention period expiring.

Please know that your work on this is greatly appreciated by me, my clients and many others.

Very best wishes. Fraternally,

Peter

--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal



## **APPENDIX A**

It is requested that the Greenville Police Department shall maintain and preserve, for a period of one year from the date of the entry of any order in this matter, any and all recordings created between the hours of 2100 on Wednesday 25th September, 2019 and 0230 on Thursday 26th September that show Mr. Dan Gerlach in the police / City of Greenville camera monitored area of Greenville, NC.

This specifically includes but is not limited to views of the area outside of Sup Dogs, Greenville, NC between 2100-2250, Wednesday 25th September, any footage of the area outside of Club 519 Greenville, NC between 2240 and 0030, Wednesday 25th September-Thursday 26th September. Footage showing the outside of the front door of Club 519 between 0140-0200 Thursday September 26th.

If the parties agree, at some point within the next twelve months, that such videos / recordings may be released to Peter Romary, under the same terms and conditions as are set out in any order entered in this action, then the parties stipulate that they may be released for distribution as outlined above. If no agreement can be reached then the matter shall come on to be heard upon a properly calendared and noticed date before the Superior Court

**QVerity Legal**  
**147 ELLSWORTH MANOR DRIVE**  
**HILLSBOROUGH, NC 27278**  
**Phone : (252) 413-8155**  
**Email: [peter.romary@qverity.com](mailto:peter.romary@qverity.com)**

*Peter Romary*  
*Managing Partner*

October 23, 2019

Mr. Donald Phillips, Esq  
Assistant City Attorney  
GPD Attorney  
*Via Email*

**Re:** Preservation of Custodial Law Enforcement Recordings by City of Greenville - GPD

Dear Donald,

Pursuant to our earlier correspondence and our agreement that recordings would be preserved, I wanted you to have the following for your file.

As I will be filing a petition for release of Custodial Law Enforcement Recordings for my clients, the NC PBA and the Fraternal Order of Police, I am asking that you please preserve and maintain the video recordings showing Mr. Dan Gerlach on the night / early morning of Wednesday September 25<sup>th</sup>, 2019 - Thursday September 26, 2019.

Specifically, that you retain:

Footage taken by static or pole mounted cameras at the following times:

**\*\*Footage / recordings showing the area of 212 E. Fifth Street between 0210-0230 on Thursday 26<sup>th</sup> September showing Mr. Gerlach approaching a vehicle (believed to be a gold colored Nissan, walking up to the same, entering the vehicle and driving away from where it was parked.**

**\*The area outside of Sup Dogs, Greenville, NC between 2100-2250, Wednesday 25<sup>th</sup> September.**

**\*Any footage of the area outside of Club 519 Greenville, NC between 2240 and 0030, Wednesday 25<sup>th</sup> September-Thursday 26<sup>th</sup> September.**

**\*Footage showing the outside of the front door of Club 519 between 0140-0200 Thursday September 26<sup>th</sup>.**

Many thanks for your assistance.

**Sincerely,**

*Peter*

**Peter Romary**

**STATE OF NORTH CAROLINA**

File No. \_\_\_\_\_

In The General Court Of Justice  
Superior Court Division

\_\_\_\_ County

**IN THE MATTER OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY:**

Name Of Petitioner \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Email Address \_\_\_\_\_

**PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING**☐ G.S. 132-1.4A(f) – Person authorized to receive disclosure  
(No Filing Fee Applies)☐ G.S. 132-1.4A(g) – General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to \_\_\_\_\_,  
state that at least some portion of the law enforcement agency recording was made in this county, and I further state the following:

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(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)

**CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY**

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

☐ Personal Delivery☐ By Regular Mail, US postage prepaid, addressed as follows:**CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY**

I certify that a filed copy of this Petition was served on the District Attorney as follows (only required for general release):

☐ Personal Delivery☐ By Regular Mail, US postage prepaid, addressed as follows:

Date \_\_\_\_\_

Petitioner's Signature \_\_\_\_\_

## Donald Phillips

---

**From:** Donald Phillips  
**Sent:** Wednesday, October 23, 2019 10:26 AM  
**To:** Mark Holtzman; Shari S. Groccia; Patina Oxendine  
**Cc:** April Alligood; Donald Phillips  
**Subject:** FW: PROPOSED PETITION, APPENDIX, PRESERVATION LETTER  
**Attachments:** Gerlach - GPD APPENDIX A.docx; QVL GERLACH- GPD PRESERVATION.pdf; Gerlach- GPD AOC-CV-270 (04.2017) (1).pdf

FYI and for our discussion at 3:30 pm.

Donald

### Donald K. Phillips

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Donald Phillips  
**Sent:** Wednesday, October 23, 2019 10:25 AM  
**To:** Peter Romary <[peter.romary@qverity.com](mailto:peter.romary@qverity.com)>  
**Cc:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Subject:** PROPOSED PETITION, APPENDIX, PRESERVATION LETTER

Peter:

For some reason, the AOC-CV-270 is blank (perhaps you did not save your changes?). Once you have completed your Petition, please email it to me so that we can discuss same.

Thank you.

Donald

### Donald K. Phillips

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Peter Romary <[peter.romary@qverity.com](mailto:peter.romary@qverity.com)>

**Sent:** Wednesday, October 23, 2019 7:09 AM

**To:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>

**Subject:** PROPOSED PETITION, APPENDIX, PRESERVATION LETTER

Dear Donald:

Please find attached the proposed petition and appendix (that appendix simply requests preservation for a year and then release by agreement IF we need anything else) -- the only thing we seek release of now is the vehicle tape from East 5th Street.

I also realized that I had not sent you a preservation letter for your file, even though you had very kindly agreed to preserve the tapes // recordings - I have enclosed a preservation letter for your file which you now have prior to the normal 30 day retention period expiring.

Please know that your work on this is greatly appreciated by me, my clients and many others.

Very best wishes. Fraternally,

Peter

--

Peter Romary  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal

## **APPENDIX A**

It is requested that the Greenville Police Department shall maintain and preserve, for a period of one year from the date of the entry of any order in this matter, any and all recordings created between the hours of 2100 on Wednesday 25th September, 2019 and 0230 on Thursday 26th September that show Mr. Dan Gerlach in the police / City of Greenville camera monitored area of Greenville, NC.

This specifically includes but is not limited to views of the area outside of Sup Dogs, Greenville, NC between 2100-2250, Wednesday 25th September, any footage of the area outside of Club 519 Greenville, NC between 2240 and 0030, Wednesday 25th September-Thursday 26th September. Footage showing the outside of the front door of Club 519 between 0140-0200 Thursday September 26th.

If the parties agree, at some point within the next twelve months, that such videos / recordings may be released to Peter Romary, under the same terms and conditions as are set out in any order entered in this action, then the parties stipulate that they may be released for distribution as outlined above. If no agreement can be reached then the matter shall come on to be heard upon a properly calendared and noticed date before the Superior Court



**QVerity Legal**  
**147 ELLSWORTH MANOR DRIVE**  
**HILLSBOROUGH, NC 27278**  
**Phone : (252) 413-8155**  
**Email: [peter.romary@qverity.com](mailto:peter.romary@qverity.com)**

*Peter Romary*  
*Managing Partner*

October 23, 2019

Mr. Donald Phillips, Esq  
Assistant City Attorney  
GPD Attorney  
*Via Email*

**Re:** Preservation of Custodial Law Enforcement Recordings by City of Greenville - GPD

Dear Donald,

Pursuant to our earlier correspondence and our agreement that recordings would be preserved, I wanted you to have the following for your file.

As I will be filing a petition for release of Custodial Law Enforcement Recordings for my clients, the NC PBA and the Fraternal Order of Police, I am asking that you please preserve and maintain the video recordings showing Mr. Dan Gerlach on the night / early morning of Wednesday September 25<sup>th</sup>, 2019 - Thursday September 26, 2019.

Specifically, that you retain:

Footage taken by static or pole mounted cameras at the following times:

**\*\*Footage / recordings showing the area of 212 E. Fifth Street between 0210-0230 on Thursday 26<sup>th</sup> September showing Mr. Gerlach approaching a vehicle (believed to be a gold colored Nissan, walking up to the same, entering the vehicle and driving away from where it was parked.**

**\*The area outside of Sup Dogs, Greenville, NC between 2100-2250, Wednesday 25<sup>th</sup> September.**

**\*Any footage of the area outside of Club 519 Greenville, NC between 2240 and 0030, Wednesday 25<sup>th</sup> September-Thursday 26<sup>th</sup> September.**

**\*Footage showing the outside of the front door of Club 519 between 0140-0200 Thursday September 26<sup>th</sup>.**

Many thanks for your assistance.

**Sincerely,**

***Peter***

**Peter Romary**



**STATE OF NORTH CAROLINA**

File No. \_\_\_\_\_

In The General Court Of Justice  
Superior Court Division\_\_\_\_\_  
County**IN THE MATTER OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY:**

Name Of Petitioner \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Email Address \_\_\_\_\_

**PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING**☐ G.S. 132-1.4A(f) – Person authorized to receive disclosure  
(No Filing Fee Applies)☐ G.S. 132-1.4A(g) – General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to \_\_\_\_\_,  
state that at least some portion of the law enforcement agency recording was made in this county, and I further state the following:

---

---

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---

---

(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)

**CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY**

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

- ☐ Personal Delivery
- ☐ By Regular Mail, US postage prepaid, addressed as follows:

**CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY**

I certify that a filed copy of this Petition was served on the District Attorney as follows (only required for general release):

- ☐ Personal Delivery
- ☐ By Regular Mail, US postage prepaid, addressed as follows:

Date \_\_\_\_\_

Petitioner's Signature \_\_\_\_\_

## Donald Phillips

---

**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Wednesday, October 23, 2019 10:51 AM  
**To:** Donald Phillips  
**Subject:** Re: PROPOSED PETITION, APPENDIX, PRESERVATION LETTER  
**Attachments:** Gerlach- GPD AOC-CV-270 (04.2017) (1).pdf

My apologies, Donald.

It's the new Adobe software I have -- always an extra step to save. Completely my fault

On Wed, Oct 23, 2019 at 10:24 AM Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)> wrote:

Peter:

For some reason, the AOC-CV-270 is blank (perhaps you did not save your changes?). Once you have completed your Petition, please email it to me so that we can discuss same.

Thank you.

Donald

### Donald K. Phillips

Assistant City Attorney

P.O. Box 7207

Greenville, NC 27835-7207

Tel: (252) 329-4426

Fax: (252) 329-4626

Email: [dkphillips@greenvillenc.gov](mailto:dkphillips@greenvillenc.gov)

Website: [www.greenvillenc.gov](http://www.greenvillenc.gov)



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**From:** Peter Romary <[peter.romary@qverity.com](mailto:peter.romary@qverity.com)>  
**Sent:** Wednesday, October 23, 2019 7:09 AM  
**To:** Donald Phillips <[DKPhillips@greenvillenc.gov](mailto:DKPhillips@greenvillenc.gov)>  
**Subject:** PROPOSED PETITION, APPENDIX, PRESERVATION LETTER

Dear Donald:

Please find attached the proposed petition and appendix (that appendix simply requests preservation for a year and then release by agreement IF we need anything else) -- the only thing we seek release of now is the vehicle tape from East 5th Street.

I also realized that I had not sent you a preservation letter for your file, even though you had very kindly agreed to preserve the tapes // recordings - I have enclosed a preservation letter for your file which you now have prior to the normal 30 day retention period expiring.

Please know that your work on this is greatly appreciated by me, my clients and many others.

Very best wishes. Fraternally,

Peter

--

Peter Romary

Partner and General Counsel, QVerity

Managing Partner, QVerity Legal

---

This e-mail is for the intended recipient only.  
If you have received it by mistake please let us know by reply and then delete it from your system; access, disclosure, copying, distribution or reliance on any of it

by anyone else is prohibited.

If you as intended recipient have received this e-mail incorrectly, please notify the sender (via e-mail) immediately.

--

Peter Romary  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal

**STATE OF NORTH CAROLINA**

File No.

Pitt County

In The General Court Of Justice  
Superior Court Division**IN THE MATTER OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY:**

Name Of Petitioner

1) Police Benevolent Assoc. of North Carolina, Inc

Address

2) Fraternal Order of Police  
c/o Peter Romary, Law Office of Peter Romary  
147 Ellsworth Manor Drive,

City, State, Zip

Hillsborough, NC 27278

Phone No.

919-359-1103

Fax No.

919-359-1192

Email Address

peter.romary@qverity.com

**PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING**☐ G.S. 132-1.4A(f) – Person authorized to receive disclosure  
(No Filing Fee Applies)☒ G.S. 132-1.4A(g) – General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to Peter Romary, Attorney, state that at least some portion of the law enforcement agency recording was made in this county, and I further state the following: All video /recorded footage from static / pole mounted cameras covering 212 E. Fifth Street, Greenville, NC between 0210 and 0230 (AM, early hours of 9-26-2019) as well as any other video showing the same area at the same time showing Mr. Dan Gerlach approaching, walking up to, entering a vehicle (believed to be a Gold colored Nissan) and then driving away from said location.

It has been alleged, online and in the media that Mr. Gerlach was "set up"; "victim of a conspiracy"; "set up by a cabal" which involved Greenville Police Officers in "luring" or "leading him" into compromising or illegal situations.

Further we ask for a preservation order to hold all tapes / videos / recordings as set forth in Appendix A (attached hereto and fully incorporated herein) and for an order permitting release of the same by agreement or after further hearing (see attached).

*(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)*

**CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY**

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

☒ Personal Delivery☐ By Regular Mail, US postage prepaid, addressed as follows:**CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY**

I certify that a filed copy of this Petition was served on the District Attorney as follows *(only required for general release)*:

☒ Personal Delivery☐ By Regular Mail, US postage prepaid, addressed as follows:

Date

Petitioner's Signature

## Donald Phillips

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**From:** Avaya Aura Messaging <avayamsg@AAM.COGNC.NET>  
**Sent:** Wednesday, October 23, 2019 11:37 AM  
**To:** Donald Phillips  
**Subject:** Voice Message from 2524138155 / "N CAROLINA CALL"  
**Attachments:** Audio\_Recording\_S1-211936\_001\_compand.wav

## Donald Phillips

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**From:** Avaya Aura Messaging <avayamsg@AAM.COGNC.NET>  
**Sent:** Wednesday, October 23, 2019 1:21 PM  
**To:** Donald Phillips  
**Subject:** Voice Message from 2524138155 / "N CAROLINA CALL"  
**Attachments:** Audio\_Recording\_S1-212254\_001\_compend.wav



## Donald Phillips

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**From:** Peter Romary <peter.romary@qverity.com>  
**Sent:** Wednesday, October 23, 2019 5:50 PM  
**To:** Donald Phillips  
**Subject:** New Petition and Appendix  
**Attachments:** Gerlach - GPD APPENDIX A.pdf; Gerlach- GPD AOC-CV-270 (04.2017) (1).pdf

Many thanks for your assistance, Don!

Please see attached -- if you can let me know the the best day for you, as I say, I can be there this Friday or next Monday or Tuesday.

You have been very kind and helpful with all of this and I am extremely grateful to you for all you have done for me and for my clients (which group seems to be growing by the minute ) -- I look forward to going back to working with Hedge Funds as well as screening and recommending people for Judicial appointments (Federal and State -- especially if we do grow the number of Special Superior Court Judges for NC then I will have much more work in screening and selecting)

Very best wishes,

Peter

--

Peter Romary  
Partner and General Counsel, QVerity  
Managing Partner, QVerity Legal

## **APPENDIX A**

As set forth in the petition to which this Appendix is incorporated by reference it is requested that the City of Greenville / Greenville Police Department shall release, to Peter Romary, Esq, any and all recordings created between the hours of 2100 on Wednesday 25th September, 2019 and 0230 on Thursday 26th September that show Mr. Dan Gerlach in the police / City of Greenville camera monitored area of Greenville NC as set forth below:

**Specifically the footage / recordings sought are all video /recorded footage from static / pole mounted cameras showing:**

\*Views of the area outside of Sup Dogs, Greenville, NC between 2100-2250, Wednesday 25th September, especially any footage showing Mr. Dan Gerlach

\*Any footage of the area outside of Club 519 Greenville, NC between 2240 and 0030, Wednesday 25th September-Thursday 26th September, especially any footage showing Mr. Dan Gerlach.

\*Footage showing the outside of the front door of Club 519 between 0140-0200 Thursday September 26<sup>th</sup> especially any footage showing Mr. Dan Gerlach.

\*Footage covering 212 E. Fifth Street, Greenville, NC between 0210 and 0230 (AM, early hours of 9-26-2019) as well as any other video showing the same area at the same time showing Mr. Dan Gerlach approaching, walking up to, entering a vehicle (believed to be a Gold colored Nissan) and then driving away from said location.

**STATE OF NORTH CAROLINA**

File No.

Pitt County

In The General Court Of Justice  
Superior Court Division**IN THE MATTER OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING SOUGHT BY:**

Name Of Petitioner

1) Police Benevolent Assoc. of North Carolina, Inc

Address

2) Fraternal Order of Police  
c/o Peter Romary, Law Office of Peter Romary  
147 Ellsworth Manor Drive,

City, State, Zip

Hillsborough, NC 27278

Phone No.

919-359-1103

Fax No.

919-359-1192

Email Address

peter.romary@qverity.com

**PETITION FOR RELEASE OF  
CUSTODIAL LAW ENFORCEMENT AGENCY  
RECORDING**☐ G.S. 132-1.4A(f) – Person authorized to receive disclosure  
(No Filing Fee Applies)☒ G.S. 132-1.4A(g) – General  
(CVS Filing Fee Applies)

I, the above-named petitioner, request the release of a custodial law enforcement agency recording to Peter Romary, Attorney, state that at least some portion of the law enforcement agency recording was made in this county, and I further state the following: All video /recorded footage from static / pole mounted cameras covering 212 E. Fifth Street, Greenville, NC between 0210 and 0230 (AM, early hours of 9-26-2019) as well as any other video showing the same area at the same time showing Mr. Dan Gerlach approaching, walking up to, entering a vehicle (believed to be a Gold colored Nissan) and then driving away from said location.

Further we ask for release of all tapes / videos / recordings as set forth in Appendix A (attached hereto and fully incorporated herein) containing the dates and times.

(Include date and approximate time of activity captured in the recording, or otherwise identify the activity with particularity sufficient to identify the recording at issue.)

**CERTIFICATE OF SERVICE  
ON HEAD OF CUSTODIAL LAW ENFORCEMENT AGENCY**

I certify that a filed copy of this Petition was served on the head of the custodial law enforcement agency as follows:

☒ Personal Delivery☐ By Regular Mail, US postage prepaid, addressed as follows:

City of Greenville  
Police Department  
c/o Chief Mark Holtzman and Donald Phillips, Esq [Police Attorney]  
500 S Greene Street,  
Greenville, NC

**CERTIFICATE OF SERVICE ON DISTRICT ATTORNEY**

I certify that a filed copy of this Petition was served on the District Attorney as follows (only required for general release):

☒ Personal Delivery☐ By Regular Mail, US postage prepaid, addressed as follows:

The Honorable Faris C Dixon  
District Attorney  
Pitt County Courthouse  
Greenville, NC

Date

Petitioner's Signature